

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF NEW MEXICO  
3 UNITED STATES OF AMERICA,  
4                   Plaintiff,  
5           vs.                   NO:   CR-15-4268 JB  
6 ANGEL DELEON, et al.,  
7                   Defendants.

8  
9           Transcript of excerpt of testimony of  
10                   FELIPE GONZALEZ  
11           April 19, 2018, and April 20, 2018  
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1 THE COURT: All right. Mr. Beck, does the  
2 Government have its next witness or evidence?

3 MR. CASTELLANO: Yes, Your Honor. The  
4 United States calls Felipe Gonzalez.

5 THE COURT: Mr. Gonzalez, if you'll come  
6 up and stand next to the witness box on my right,  
7 your left, before you're seated, my courtroom  
8 deputy, Ms. Bevel, will swear you in.

9 FELIPE GONZALEZ,  
10 after having been first duly sworn under oath,  
11 was questioned and testified as follows:

12 THE CLERK: Please be seated. Please  
13 state your name for the record.

14 THE WITNESS: My name is Felipe Gonzalez.

15 THE COURT: Mr. Gonzalez. Mr. Castellano.

16 MR. CASTELLANO: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. CASTELLANO:

19 Q. Good afternoon.

20 A. Good afternoon, sir.

21 Q. Did you ever work for the State Police?

22 A. Yes, I did.

23 Q. When did you work for the State Police?

24 A. I started my career with State Police back  
25 in 1993.

1 Q. In 1993?

2 A. Yes, sir.

3 Q. Did you eventually retire from that  
4 agency?

5 A. Yes, I did.

6 Q. When did you retire?

7 A. I retired in November of 2013.

8 Q. Will you tell us a little bit about your  
9 training and experience as a New Mexico State police  
10 officer?

11 A. Yes. I attended a 16-week Academy back in  
12 '93 through the State Police Academy. I was in --  
13 got my commission and I was stationed as my first  
14 duty station in Gallup, New Mexico. I worked there  
15 as a patrol officer for almost four to five years  
16 before I transferred back to the Las Cruces area.

17 Q. And once you finished your term in Gallup,  
18 did you then remain in Las Cruces for the rest of  
19 your career?

20 A. That is correct.

21 Q. And what other positions did you hold as a  
22 state police officer?

23 A. In 2000, I transferred into the  
24 investigations section of the state police.

25 Q. Did that require any additional training

1 when you moved into investigations?

2 A. It pretty much was based -- we did some  
3 initial -- initial training, your background, cases  
4 you investigated. You have to, you know, go before  
5 an oral panel, kind of like that, and you get  
6 selected to become an agent or criminal  
7 investigator.

8 Q. Were you on duty on March 26 of 2001?

9 A. Yes, I was.

10 Q. And can you tell the members of the jury  
11 if you recall being called out to the Southern New  
12 Mexico Correctional Facility that day.

13 A. Yes, I was. That day I was called.

14 Q. What time did your day start in terms of  
15 getting involved with this case?

16 A. In this particular case, I believe we got  
17 the call about 9:00 in the morning.

18 Q. What was the initial information you had?

19 A. We had got information of an incident that  
20 happened at the Southern New Mexico Correctional  
21 Facility. They had found a deceased body. So I was  
22 assigned to that case by Sergeant Jose Ramirez, who  
23 was the supervisor at the time. So I proceeded to  
24 that location to conduct the investigation.

25 Q. And for those who don't know, is the New

1 Mexico State Police a state police force statewide  
2 for New Mexico?

3 A. Yes, that's correct.

4 Q. Is New Mexico State Police responsible for  
5 investigating crimes at the penitentiaries?

6 A. That is correct.

7 Q. Is that why your agency was called to the  
8 pen on that date?

9 A. Yes, sir. If it's a state-run facility,  
10 as well. So they normally would always -- on any  
11 particular type of incident, they would always call  
12 state police to investigate.

13 Q. All right. What did you do when you first  
14 got assigned to the investigation?

15 A. When I first got there, I believe I met  
16 with some of the personnel initially. Shortly  
17 thereafter, I believe we had another call that there  
18 might have been another deceased body. And they  
19 dispatched another agent, and the sergeant also  
20 arrived at the scene. I kind of waited for them at  
21 the scene there. Then we met up with the staff, who  
22 gave us some preliminary information about the  
23 incident.

24 Q. What time did you arrive at the facility?

25 A. I believe -- it's been a long time -- it

1 probably was around 9:45, close to 10:00, probably  
2 right around that time.

3 Q. Would it help you refresh your  
4 recollection to take a look at your report?

5 A. Yes, it would.

6 MR. CASTELLANO: May I approach the  
7 witness, Your Honor?

8 THE COURT: You may.

9 BY MR. CASTELLANO:

10 Q. It's Bates 735. I'll go ahead and have  
11 you look at that. When your memory is refreshed,  
12 let me know, please.

13 A. Okay. Yeah, 9:55.

14 Q. Okay. So around 9:55, is when you arrived  
15 at the facility?

16 A. Correct.

17 Q. What arrangements did you make once you  
18 arrived there?

19 A. I believe at the time we met up -- I met  
20 with the deputy warden, one of the lieutenants, and  
21 the sergeant, just getting initial information.  
22 Shortly thereafter, I believe Agent Rhoades showed  
23 up at the facility, as well as Sergeant Ramirez. We  
24 met up with the deputy warden. I believe it was  
25 Warden Nance at the time; Lieutenant Jim Moore at

1 the time, as well. And then from there, they gave  
2 us the information.

3 We proceeded to do a walk-through of both  
4 scenes, and I believe we did a walk-through of the  
5 initial scene regarding -- the deceased, Frank  
6 Castillo, had been identified.

7 And then we went to the other section of  
8 the facility, which was my particular case, which  
9 was the Rolando Garza case. And also we just kind  
10 of went in there, walked through the scene,  
11 everything had already been taped off; nobody was  
12 allowed in there.

13 And then we looked in the window, observed  
14 the bodies, and then we kind of left that particular  
15 area and went to another part of the building to  
16 gather more information, and started doing  
17 interviews with correctional officers as well as  
18 inmates.

19 Q. What was the purpose of doing an initial  
20 walk-through?

21 A. You always do an initial walk-through to  
22 see what you observe there at the scene, make sure  
23 it's been contained, make sure there is nobody  
24 there, nobody walking around that can contaminate  
25 the scene. So that's kind of what our main priority



1 is, to make sure that that scene has been contained  
2 before we start the crime scene processing.

3 Q. Was Agent Rhoades initially assigned to  
4 support you as the case agent for the Garza  
5 homicide?

6 A. I think initially he was, because we're at  
7 the state police office. Basically what happens,  
8 we're there, we're getting all our equipment, you  
9 know, cameras, whatever we might need, as we're  
10 getting tape recorders, whatever we would need to go  
11 down there. So we gather all that.

12 So I was the first one to leave the state  
13 police office, and I believe Agent Rhoades was also  
14 going to go out there and assist as well. But  
15 during that time, we got another call that there was  
16 another deceased body, as well.

17 Q. How did that change things? You went from  
18 a supporting role to what role after that?

19 A. As a case agent to that particular case.

20 Q. So then were you each then assigned to  
21 your own homicide?

22 A. That is correct.

23 Q. And even though you had your own  
24 homicides, each, did you do a walk-through together,  
25 just to kind of confer with each other and check

1 things out?

2 A. Yes, that's kind of what we did, as well  
3 as we had the supervisor present at that time, as  
4 well, and we kind of did that together, just so we  
5 can collect information and gather information and  
6 see if there was any commonalities in both cases.

7 Q. Why would you have looked for  
8 commonalities out at the prison that day?

9 A. Because it would give us information as  
10 far as, you know, what would we be looking at, and  
11 in order to collect evidence and, you know, help us  
12 with the case, for the most part.

13 Q. And had you yourself responded to crimes  
14 before at that facility?

15 A. Yes, I had.

16 Q. Had you ever responded to a double  
17 homicide at that facility?

18 A. Not a double homicide, no, sir.

19 Q. Was anyone else called out to assist you  
20 and Agent Rhoades with documenting the evidence out  
21 there?

22 A. Yes, I believe we had Officer -- Agent  
23 Albert Venegas was an agent at the time. He was  
24 also assigned to assist -- I believe it was Agent  
25 Alex Horcasitas, as well, was assigned. And then we

1 had our crime scene techs which were assigned, which  
2 was Agent Wesley LaCuesta and Agent Robert Duncan.

3 Q. You mentioned having cameras and things of  
4 that nature that you possibly gathered before going  
5 out. What was the need for calling the crime scene  
6 techs out there?

7 A. Because they're usually -- at this  
8 particular time, we had established a crime scene  
9 unit, and they were part of that crime scene unit,  
10 which had a little more expertise on  
11 crime-processing, collecting of evidence. And that  
12 usually kind of frees the agent to do other duties,  
13 as well, while those scenes are being processed, and  
14 that's why we bring them in. At the time, they had  
15 more expertise than I did as far as crime scene  
16 processing. They had, you know, been trained with  
17 crime scene processing and had done a lot more  
18 scenes than myself and Agent Rhoades probably.

19 Q. And where were they coming from?

20 MR. CASTLE: Your Honor, if we could  
21 approach the bench.

22 THE COURT: Certainly.

23 (The following proceedings were held at  
24 the bench.)

25 MR. CASTLE: Your Honor, several of us

1 noticed two of the jurors were asleep, seats 6 and  
2 7.

3 THE COURT: I watched them back there.  
4 Are you talking about the ones that lean over?

5 MR. CASTLE: I can't remember their names.  
6 The one right next --

7 THE COURT: In the back? Some of them I  
8 was watching, they lean over and write.

9 MR. CASTLE: Next to the empty seat.

10 THE COURT: Do you want to call it a day?

11 MR. CASTLE: I think so. I think we ought  
12 to keep an eye. That's my concern with  
13 Mr. Castellano's testimony.

14 THE COURT: Riveting.

15 MR. CASTELLANO: I'm destroying them.

16 MR. BECK: I will point out that I have  
17 seen juror number 6, Ms. Nitterauer; she closes her  
18 eyes a lot and still moves. I think she listens a  
19 lot with her eyes closed. Is that the one?

20 MR. CASTLE: The gentleman next to her.

21 MR. BECK: That was Randy's fault.

22 MR. CASTELLANO: I think they call it  
23 living, breathing flesh.

24 (The following proceedings were held in  
25 open court.)

1 THE COURT: All right. I think we're  
2 going to call it quits. The room is getting a  
3 little warm and I think everybody wants to call it a  
4 day. All right. I appreciate everybody's hard  
5 work. You might check those missile tests coming in  
6 from Alamogordo. I think there are going to be some  
7 tomorrow. Those of you coming in might need to come  
8 in a little early, and we'll try to have some  
9 refreshments to occupy you.

10 Be safe, and we'll see you tomorrow at  
11 8:30.

12 (The jury left the courtroom.)

13 THE COURT: How long, Mr. Beck, are you  
14 thinking your record on this Jaramillo issue -- how  
15 much time are you looking for?

16 MR. BECK: I would think between Special  
17 Agent Acee's testimony and argument, I would say an  
18 hour, but knowing cross-examination, I would say we  
19 should plan for two.

20 THE COURT: Well, see if you can give me  
21 as much as you can tonight. You said you had some  
22 cases you were going to send me. Try to do as much  
23 of it as you can sending stuff to me. Do you know  
24 of anything on your James statement that --

25 MR. BECK: I mean, that's a nonissue right

1 now. Those are all Mike Jaramillo's, Criminal's,  
2 new statements.

3 THE COURT: Okay.

4 MR. BECK: It's just a chart of what's in  
5 the 302 that --

6 THE COURT: Okay. So this would all be if  
7 he testifies?

8 MR. BECK: Right.

9 THE COURT: And nothing new if he doesn't?

10 MR. BECK: Right.

11 THE COURT: All right. Well, we will see  
12 you in the morning. Y'all have a good evening. I  
13 appreciate everybody's hard work.

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1 April 20, 2018

2 THE COURT: All right. Good morning,  
3 everyone. I appreciate everybody being here and  
4 ready to go and on time. Yesterday, Mr. Beck  
5 requested some time during the day in the afternoon.  
6 I guess put Mr. Acee on the stand and spend hours  
7 with that, as well as probably argument on the  
8 Michael Jaramillo issue. What are the defendants'  
9 thoughts on that?

10 MS. HARBOUR-VALDEZ: Your Honor, I'm just  
11 now reading the brief that was filed this morning,  
12 but I'm assuming we're going to want to respond to  
13 this.

14 THE COURT: Okay. What's your thoughts  
15 about spending time this afternoon with an  
16 evidentiary hearing with Mr. Acee? And I think he  
17 was estimating a couple of hours.

18 MR. CASTLE: I'm not sure what the purpose  
19 of the evidentiary hearing is. I mean, it seems to  
20 be an issue of law.

21 MR. BECK: I tend to agree with Mr.  
22 Castle. Once the Court said, "Get me some things,"  
23 and I did overnight, I tend to agree with Mr. Castle  
24 that I don't think an evidentiary hearing is needed  
25 or really applicable in this case.

1 THE COURT: All right. Well, let me just  
2 keep reading your brief. I got it this morning,  
3 and --

4 MR. BECK: If you still want to give us a  
5 couple hours this afternoon, I won't mind.

6 THE COURT: All right. Is there anything  
7 else we need to discuss before we bring the jury in?  
8 Anything else I can do for you, Mr. Beck?  
9 Mr. Castellano?

10 MR. BECK: No, Your Honor.

11 THE COURT: How about from the defendants?

12 MR. BENJAMIN: Yes, Your Honor.

13 THE COURT: Mr. Benjamin.

14 MR. BENJAMIN: Your Honor, I believe I'll  
15 let Ms. Armijo sit down because she's --

16 MS. ARMIJO: That's okay.

17 MR. BENJAMIN: I believe next week the  
18 Government plans on launching into Adrian Burns.  
19 And one of the witnesses, Angela Gallegos -- that's  
20 Joe's daughter, Joe Gallegos -- I filed a notice,  
21 Your Honor, I think it was the first or second day  
22 of trial regarding her. At some point in time --  
23 and I guess I really don't want to deal with the  
24 medical issues so I don't really want to deal with  
25 that in open court. But Ms. Armijo and I need to



1 have some of the Court's time regarding essentially  
2 their subpoena, because there are some issues with  
3 her medical that I don't want -- that I want to make  
4 the Court aware of before the Government tries to  
5 enforce subpoenas, or if we find an alternate means  
6 of compliance, or something like that.

7 THE COURT: I saw the brief. I'll have to  
8 find it. What are the issues?

9 MR. BENJAMIN: She's in the middle of a  
10 high-risk pregnancy and due in two weeks.

11 THE COURT: What is the issue for the  
12 Court to decide?

13 MR. BENJAMIN: Compliance, Your Honor.  
14 There's appointments and also a letter that I  
15 provided, an additional letter that I provided the  
16 Government from her care provider regarding travel.  
17 She is in Los Lunas or the area, so it's three  
18 hours.

19 THE COURT: Yeah. I mean, are you trying  
20 to prevent her from testifying?

21 MR. BENJAMIN: I'm trying to raise an  
22 issue that -- and I provided a stipulation that  
23 wasn't accepted. There is a -- she's essentially a  
24 foundation witness for a piece of evidence for the  
25 Government, and so I guess I'd like to be able to

1 put some items on the record.

2 THE COURT: Okay. Well, chances are,  
3 given what you've described -- I'll try to find that  
4 brief. I probably will not.

5 MR. BENJAMIN: It's more than just a  
6 one-page notice, Your Honor, with an attachment to  
7 it.

8 THE COURT: I'm probably not going to, you  
9 know, preclude the Government from subpoenaing her,  
10 so --

11 MR. BENJAMIN: I guess -- they've  
12 subpoenaed her, Your Honor. The issue is whether or  
13 not she's going to be required to come down.

14 THE COURT: I think she better plan on it,  
15 given what you've said.

16 MR. BENJAMIN: I guess once the Court has  
17 that, I think we can address that.

18 MS. ARMIJO: We're looking for the  
19 witness, Your Honor.

20 THE COURT: All right. We'll go ahead and  
21 get the jury in. Which witness are you --

22 MS. ARMIJO: Felipe Gonzalez.

23 THE COURT: You're going to go back to Mr.  
24 Gonzalez?

25 All right, all rise.

1 (The jury entered the courtroom.)

2 THE COURT: All right. Everyone be  
3 seated. Good morning, everyone. Good Friday  
4 morning. Looks like a pleasant morning before the  
5 winds pick up. We didn't have any missiles or  
6 anything like that.

7 Ms. Bevel said she got you cookies and  
8 croissants. She said you only want donuts once a  
9 week. That's one more day a week than I should have  
10 donuts.

11 I'm glad everybody is back and working  
12 hard. And I appreciate all the attorneys and  
13 parties and all the jurors being here on time so we  
14 can keep things on track.

15 All right. Mr. Gonzalez, I'll remind you  
16 that you're still under oath.

17 Mr. Castellano, if you wish to continue  
18 your direct examination of Mr. Gonzalez, you may do  
19 so at this time.

20 MR. CASTELLANO: Yes, sir. Thank you.

21 THE COURT: Mr. Castellano.

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25

1 FELIPE GONZALEZ,  
2 after having been previously duly sworn under  
3 oath, was questioned, and continued testifying  
4 as follows:

5 CONTINUED DIRECT EXAMINATION  
6 BY MR. CASTELLANO:

7 Q. Good morning, Mr. Gonzalez.

8 A. Good morning.

9 Q. Yesterday you were talking about -- I  
10 think we left off talking about collection of  
11 evidence and the crime scene team. Were you aware  
12 of a crime scene team that was in Las Cruces at that  
13 time as they were currently set up?

14 A. No, we didn't have, per se, a crime scene  
15 team in Las Cruces. Myself and Agent Rhoades would  
16 do crime scene investigation in this area, but we  
17 had our main investigators out of the Albuquerque  
18 area.

19 Q. Has that changed over the years?

20 A. Yes, it has. Yes, sir.

21 Q. During your time at the facility, I want  
22 to ask if you took a statement from Christopher  
23 Chavez at 2:30 p.m. on March 26, 2001.

24 A. Yes I did.

25 Q. Before you took that, did you read him his

1 rights?

2 A. Yes.

3 Q. Did he agree to waive his rights and tell  
4 you something?

5 A. Yes, he did.

6 Q. What did he tell you -- first of all,  
7 where did you meet him for this discussion?

8 A. We were still in the facility, the  
9 education building, one of the buildings there  
10 within the facility.

11 Q. And do you recall why it was the education  
12 building? Why did you meet there?

13 A. I think that's where we staged to conduct  
14 interviews regarding the investigation.

15 Q. So when you said it was staged for the  
16 interview, did the corrections officers basically  
17 bring you inmates one at a time so you could meet  
18 them?

19 A. That is correct.

20 Q. Is that where you met Mr. Chavez?

21 A. That's correct.

22 Q. What did he tell you about Rolando Garza  
23 and news of his death?

24 A. It's been a long time. I'm trying to  
25 remember. I know. I believe he mentioned that he

1 didn't know much, didn't have any news, it was news  
2 to him about the murder, and he had a pretty short,  
3 brief statement. It wasn't a whole lot. He  
4 indicated that, I think, in the morning he got up in  
5 the morning after the cells were opened. I believe  
6 he went to breakfast, and I do remember him saying  
7 he did go and sit down with another inmate by the  
8 name of Eugene Martinez.

9 Q. He said he had ate chow with Eugene  
10 Martinez?

11 A. Yes.

12 Q. And do you recall the last time Mr. Chavez  
13 told you that he had seen inmate Garza?

14 A. Yes, that was in the night before. He  
15 said he was -- this was the first statement, the  
16 first statement, because I believe I reinterviewed  
17 him again a couple weeks later, as well. So this  
18 particular interview was a short interview, and  
19 that's pretty much what he said. He did remember  
20 seeing him the night before. In the morning, like I  
21 said, he got up after the cells opened, went to  
22 breakfast.

23 Q. And so was the last time he had seen the  
24 person known as Looney, Mr. Garza -- the last time  
25 he'd seen him alive was at bedtime?

1           A.     Yeah, it would have been right around, you  
2 know -- right before lockdown.

3           Q.     Was this information you placed in a  
4 report?

5           A.     Yes.

6           Q.     Now, you mentioned that there was a second  
7 statement?

8           A.     Correct.

9           Q.     What can you tell us about that statement  
10 in terms of timing, for starters?

11          A.     It was a little lengthier. We had got  
12 some additional information from other inmates, so  
13 we were trying to -- I think we got some information  
14 from other inmates that there was some drug use  
15 during that time. And when I talked to him, he did  
16 admit to using heroin during that -- during that --  
17 that particular interview, right before going to  
18 bed, I believe it was. He pretty much stated he  
19 kind of stayed by himself that evening in his cell  
20 doing heroin.

21          Q.     Was that second interview in April of  
22 2001?

23          A.     I'm not sure. I think that one was on  
24 the -- maybe a few weeks later. I'm not sure.

25          Q.     Would it refresh your recollection to take

1 a look at the report?

2 A. Yes, please.

3 MR. CASTELLANO: May I approach, Your  
4 Honor?

5 THE COURT: You may.

6 BY MR. CASTELLANO:

7 Q. Mr. Gonzalez, I'll have you read the  
8 following pages to yourself and when your  
9 recollection is refreshed, let us know.

10 A. I believe this interview on this report  
11 shows April 26. April 26. There was some  
12 interviews done on, I believe, the first -- April  
13 4th. But I believe Mr. Chavez's interview the  
14 second time is on April 26. Is that the one you're  
15 talking about?

16 Q. Yes. And do you have in that report any  
17 notation about what Mr. Chavez told you during the  
18 second interview?

19 A. Let me look at that. Yes, this is the  
20 same interview I was referring to.

21 Q. April 26, 2001?

22 A. That's correct.

23 Q. And was March 26, 2001, a Monday?

24 A. I believe it was, yes, sir.

25 Q. Did Mr. Chavez tell you about some of the



1 events on the previous day, which was Sunday?

2 A. Yes. On that one, I believe he said he  
3 got up on Sunday morning about 8:00. He went to his  
4 work detail. And then after that, I think he went  
5 to the recreation and played basketball for kind of  
6 the rest of that evening, I believe, until the next  
7 day.

8 Q. And do you remember approximately what  
9 time he said he was back in his cell on Sunday, the  
10 day before the murders?

11 A. According to my report, it would have been  
12 about 9:30 p.m.

13 Q. Is that the point he told you about using  
14 heroin before bedtime?

15 A. Right. That's correct.

16 Q. Did you ask him anything about any fights  
17 or disagreements the night before?

18 A. Yes, I did, and he said that there was no  
19 arguments or anything going on between the other  
20 inmates, which that was kind of contrary of what we  
21 had received from another inmate.

22 Q. And you asked him that information because  
23 you had some other information from the  
24 investigation?

25 A. Right.

1 Q. I also want to ask you, going back to  
2 March 26, 2001, whether you spoke to someone named  
3 Allen Patterson.

4 A. Yes, sir.

5 Q. Did you also read him his rights before  
6 you asked him questions?

7 A. Yes, I did.

8 Q. Did he waive his rights and agree to talk  
9 to you?

10 A. Yes, he did.

11 Q. Did this interview also take place at the  
12 education building?

13 A. I'm almost certain it did, yes, sir. I  
14 have to look at my notes, but I'm almost certain it  
15 did.

16 Q. What do you recall Mr. Patterson telling  
17 you about the last time he saw inmate Garza?

18 A. Again, this was the initial -- the initial  
19 interview with him was kind of short, not a whole  
20 lot of information, but I do recall him saying that  
21 he did remember seeing Mr. Garza at the time, the  
22 night before, as well. And then he also said they  
23 were watching a particular movie, Conan the  
24 Barbarian. I believe that's the movie they were  
25 watching at the time. He did recall that.

1 I did remember him also -- I think he  
2 mentioned that in the morning he did get up to go  
3 have breakfast. But I believe he said after the  
4 doors opened or were unlocked, I think specifically  
5 he stated that he remained in his cell for, like, 30  
6 minutes before actually going to chow, or breakfast,  
7 that they would call it, and that was pretty much  
8 his statement.

9 Q. And did he tell you anything about the  
10 tone of the pod, whether things seemed normal to  
11 him?

12 A. I think the same thing from him. He  
13 mentioned that everybody was kind of going and  
14 coming out of the pod, pretty normal.

15 Q. At some point did you interrupt the  
16 interviews to start the processing of the scene?

17 A. Yes, sir. We pretty much -- we did  
18 interviews on and off, probably, with correctional  
19 officers, inmates. I have to look at my list as far  
20 as that went, but I think towards -- I think I  
21 remember meeting with one of our crime scene  
22 investigators, technicians, as well, probably around  
23 7:00 in the evening.

24 Q. And as part of your investigation, did you  
25 collect DNA from everyone in the pod?

1 A. Yes, I did, sir.

2 Q. What was the purpose of collecting a DNA  
3 sample?

4 A. We knew there was -- you know, there could  
5 be evidence in the scene, in the actual cells as  
6 well. We knew there were some stains, red stains,  
7 other type of stains. So you know, any type of  
8 trace evidence. So we collected those samples to  
9 compare, you know, with any evidence that would have  
10 been obtained.

11 Q. I want to show you now Government's  
12 Exhibit 19, which has already been admitted. Do you  
13 recall this scene or this photograph?

14 A. Yes, I do, sir.

15 Q. And is this Mr. Garza as you recall first  
16 finding him?

17 A. That's exactly correct.

18 Q. I also want to show you Government's  
19 Exhibit 50. Do you recall finding this in someone's  
20 cell?

21 A. Yes, that was a wash towel, I believe.  
22 I'd have to check my report. I'm not too sure which  
23 cell it came from or who collected it at this time.  
24 Might have been Agent Venegas.

25 Q. Even though you don't remember

1 specifically where it came from, did you submit this  
2 for testing to the laboratory?

3 A. Yes, sir.

4 Q. Let me show you also Government's Exhibit  
5 49. What is that item?

6 A. That one appears to be a couple shoelaces  
7 tied together, for the most part.

8 Q. Is that the shoelace found in Mr. Chacon's  
9 cell?

10 A. That is correct, sir.

11 Q. Let me turn to Exhibits 34 and 35. Okay.  
12 What are we looking at in Exhibit 34?

13 A. I believe that's the neck area of Rolando  
14 Garza.

15 Q. Okay. Let me show you also Exhibit 35.  
16 I'm circling on this exhibit some kind of red marks  
17 there I would call an abrasion. Now, turning back  
18 to Exhibit 49, did you visually inspect Government's  
19 Exhibit 49?

20 A. Yes, I did.

21 Q. From your visual inspection, did there  
22 appear to be any blood or skin?

23 A. On that particular item, there didn't  
24 appear to be anything consistent with bloodstains.  
25 It could have been other human fluids; I couldn't

1 tell. But as far as just to the eye, there was not.

2 Q. Even though you inspected this visually  
3 and there didn't appear to be material on there, did  
4 you still submit this item to the laboratory for  
5 testing?

6 A. Yes, sir, I did.

7 Q. There is also mention of a white T-shirt  
8 with unknown stains in Mr. Chacon's cell. I don't  
9 know if you remember that or not.

10 A. Yes, I do remember there were several  
11 items that were collected from Mr. Chacon's cell.  
12 I'd be happy to look at inventory forms. I know  
13 there were items collected, additional items  
14 collected, and that seems consistent with what was  
15 collected.

16 Q. The question I have was whether or not you  
17 submitted that item for testing, as well.

18 A. I believe, yes, sir, I did.

19 Q. Do you recall if Allen Patterson had any  
20 scratches or abrasions on his body?

21 A. I remember -- I believe -- I'm not sure if  
22 it was that particular day or the day after, I  
23 believe I was informed by a couple of correctional  
24 officers that they did notice that he had -- might  
25 have had a minor scratch on one of his knees or so.

1 Q. What about Eugene Martinez?

2 A. Same thing. I think he might have had a  
3 scratch. I'm not sure exactly where or what  
4 location. It might have been by his elbow area.  
5 I'm not real sure on that.

6 Q. And if you can, I want to ask you if you  
7 can give us the names of all of the people, all of  
8 the inmates, who were in the pod on March 26, 2001.  
9 And if you need to review your report, I can let you  
10 refresh your recollection.

11 A. Yeah, could you do that for me, please?

12 MR. CASTELLANO: May I approach, Your  
13 Honor?

14 THE COURT: You may.

15 BY MR. CASTELLANO:

16 Q. If you find the number first, I'll ask you  
17 how many inmates were living in the pod on that day.

18 A. Thirteen, sir. I mean there are  
19 several -- let's see, I can --

20 Q. If you find it, I want to ask you the name  
21 as well as the cell number.

22 A. I mean, this report has the ones we  
23 interviewed. But I believe there was, like, a list  
24 on -- a list of the inmates that were in the pod,  
25 housed in the pod. I can read these out if you

1 want, if that's what your --

2 Q. Yes, please.

3 A. I don't think this is going to be all of  
4 them, but I know Christopher Chavez was housed  
5 there. Allen Patterson was also housed there.  
6 Eugene Martinez was housed there. Jesse Tony Ibarra  
7 was housed there. Felix Reyes was housed there.  
8 Ray Molina was housed there. Vito Ortiz was housed  
9 there. Martin Chacon was also housed there. Joseph  
10 Otero was also housed there. I believe Lorenzo  
11 Mora, as well. I'm not sure -- Jeremiah Baca,  
12 Augustine Saenz. I'm not sure how many -- I lost  
13 count on them. I'm not sure.

14 Q. I think that's 12.

15 A. That's 12.

16 Q. And would Mr. Garza be the 13th?

17 A. Yes -- well, I --

18 MR. GRANBERG: Objection, Your Honor.  
19 Leading question on that last one.

20 THE COURT: Try to do open-ended  
21 questions.

22 MR. CASTELLANO: Sure.

23 A. I'm not -- I don't remember if it would  
24 have been 13 plus Mr. Garza, or if that would have  
25 been 12 plus Mr. Garza. I'm not -- I can't



1 remember, to be honest with you.

2 BY MR. CASTELLANO:

3 Q. Did you have a chance to interview  
4 Mr. Molina?

5 A. Yes, I did.

6 Q. You won't be able to tell us what he said,  
7 because it would be hearsay. I want to ask about  
8 his demeanor when you interviewed him.

9 A. Again, Mr. Molina I interviewed a couple  
10 or three times during the course of this  
11 investigation. The most -- the second interview  
12 that I interviewed him, he had a little more  
13 information to provide, and his demeanor was  
14 pretty -- he was pretty down. He was kind of upset,  
15 and it was indicated that he was willing to  
16 cooperate and testify to what he heard and what  
17 happened during that time.

18 Q. Now, when you say he was down and upset,  
19 was that regarding the topic of Mr. Garza's death?

20 A. That is correct. I believe at the time he  
21 was getting ready to get paroled out or be released,  
22 and he was pretty -- I know he was pretty concerned  
23 and was pretty upset, because you know, he really  
24 thought, you know, the other inmates were friends  
25 and after what they did --

1 MR. CASTLE: Objection. Hearsay, Your  
2 Honor.

3 THE COURT: I think you'd better direct  
4 the questions.

5 BY MR. CASTELLANO:

6 Q. The main point I want to ask you is  
7 whether or not he appeared upset about Mr. Garza's  
8 death.

9 A. Yeah, he was pretty, pretty down and upset  
10 about it, yes, sir.

11 Q. Did you -- eventually, did this case go  
12 cold?

13 A. Yes. I mean, we suspected who was  
14 involved. Obviously, we did collect some evidence.  
15 There was some evidence that was collected,  
16 submitted to the lab. I don't believe -- we weren't  
17 able to aid in any follow-up with that evidence.  
18 So, yes, at that point it did go cold.

19 Q. At some point in 2007, did you have a  
20 chance to meet somebody named Leonard Lujan?

21 A. Yes, sir.

22 Q. Once again, you won't be able to tell the  
23 jury what he said, because it's hearsay. But did  
24 you take a statement from him?

25 A. Yes, we did. As a matter of fact, that

1 particular interview, myself and Agent Norman  
2 Rhoades met with another detective up in  
3 Albuquerque, and we met with him and his attorney,  
4 and he provided a statement for us, yes, sir.

5 Q. And did the statement at least cover the  
6 topic of the Castillo and Garza murders?

7 A. Yes, it did.

8 Q. Also after you took that statement from  
9 him, did you also, shortly after that or maybe a few  
10 months, show Mr. Lujan any photo arrays?

11 A. Yes, I did.

12 Q. Once again without telling us names, did  
13 he at least point out people to you who he claimed  
14 were involved with the homicides?

15 A. Yes. Yes, he did.

16 MR. CASTELLANO: May I have a moment, Your  
17 Honor?

18 THE COURT: You may.

19 MR. CASTELLANO: Thank you, Your Honor. I  
20 pass the witness.

21 THE COURT: All right. Thank you  
22 Mr. Castellano.

23 Do any of the defendants have  
24 cross-examination of Mr. Gonzalez? Mr. Granberg?

25 MR. GRANBERG: Thank you, Your Honor.

1 THE COURT: Mr. Granberg.

2 CROSS-EXAMINATION

3 BY MR. GRANBERG:

4 Q. Agent Gonzalez?

5 A. Yes, sir.

6 Q. My notes yesterday reflect that you have  
7 been a detective or working with the state police  
8 since 1993; is that correct?

9 A. Yes, sir.

10 Q. And prior to receiving your certification,  
11 did you take any sort of training in witness  
12 interviews?

13 A. Yes, I did.

14 Q. Now, would it be fair to say that had the  
15 murder occurred on the outside of the prison  
16 grounds, that the interview would have been  
17 recorded?

18 A. Yeah, more; yes, sir. Yeah. It just  
19 depends on the situation of the case and what we're  
20 interviewing, yes, sir.

21 Q. And if a statement is given, would the  
22 affiant of the statement normally sign it?

23 A. You mean the actual statement?

24 Q. The actual statement. If a statement is  
25 given to you, does the person giving you the

1 statement sign it saying it's true and correct,  
2 saying those are his own words?

3 A. Sometimes. Not all the time, yes, sir.

4 Q. So when you responded to Southern in 2001,  
5 did you have police equipment in your car?

6 A. I don't.

7 Q. Let me narrow it down. Equipment such as  
8 a camera.

9 A. Yes.

10 Q. Did you have a tape-recording device?

11 A. I did, yes, sir.

12 Q. Did you take the tape-recording device in  
13 with you when you took these interviews in the  
14 library?

15 A. No. And normally --

16 Q. No?

17 A. No.

18 Q. But you could have; correct?

19 A. Yes, sir.

20 Q. And certainly if -- and certainly you  
21 didn't have Mr. Chavez sign a statement, did you?

22 A. No, I did not.

23 Q. And you didn't record his statement?

24 A. I don't recall if I did or not. I'm not  
25 seeing anything that would have been a taped

1 statement. I know we went back and there was other  
2 interviews that we did that we did record.

3 Q. But the statement that he gave on the 26th  
4 was not recorded?

5 A. I don't believe it was, no, sir.

6 Q. What about the second statement that he  
7 gave on April -- later on in April? Did you record  
8 that one?

9 A. I don't -- I don't -- to be honest with  
10 you, I don't remember if I did.

11 Q. But you could have? You had advance  
12 notice at that point that you were conducting a  
13 murder investigation, and it would have been  
14 important to you to record these statements?

15 A. That's correct.

16 Q. Can we jump to Government's 49. One  
17 second. Agent Gonzalez, you have on your screen  
18 Government's Exhibit 49. That's the shoelace;  
19 correct?

20 A. It looks like it's more than just one  
21 shoelace, but yes.

22 Q. And that is a shoelace that was found in  
23 Martin Chacon's cell?

24 A. Yes, sir, I believe that's correct.

25 Q. Were you the person that found the

1 shoelace, or was it someone else?

2 A. That was someone else, sir.

3 Q. Did you have the -- it looks like there's  
4 some discoloration on one end of the loop. Do you  
5 see that?

6 A. Not very specific. I'm not sure which  
7 area you're talking about.

8 Q. Let's see if I can draw on here. I think  
9 it would be, like, right around here. Do you see  
10 that?

11 A. You mean like a discoloration, like -- I  
12 don't.

13 Q. Do you see a discoloration on that part of  
14 the shoestring?

15 A. It seems maybe a little darker, maybe. I  
16 can't really tell if it's just a shadow on the photo  
17 or what. I'm not sure.

18 Q. Do you know if that shoestring was tested  
19 for trace evidence?

20 A. Everything, yes, sir, I submitted to the  
21 lab for DNA, serology testing. So I would have to  
22 say yes, I submitted it to the lab to be tested for  
23 any type of a DNA.

24 Q. And as far as -- to your knowledge, was  
25 Mr. Chavez's blood or any sort of bodily fluids

1 tested for that shoestring?

2 A. They would have been compared with the  
3 samples of DNA that I took from all the inmates. It  
4 would have.

5 Q. And there's no positive match, was there?

6 MR. CASTELLANO: Objection, calls for  
7 hearsay.

8 Q. That you know of.

9 MR. CASTELLANO: Still calls for hearsay.

10 THE COURT: I think he would have to have  
11 got that information from some other source, so  
12 sustained.

13 BY MR. GRANBERG:

14 Q. Mr. Gonzalez, are you familiar with  
15 Lawrence Tafoya? He's a warden.

16 A. I do recall his name, yes, sir.

17 Q. You do. And are you familiar with one of  
18 the inmates by the name of Augustine Saenz?

19 A. Yes, he was also, I believe, housed in the  
20 same unit.

21 Q. Okay. Do you remember being tasked by  
22 Lawrence Tafoya to go interview Augustine Saenz  
23 regarding a statement that he gave regarding the  
24 murder?

25 A. I'd have to look at my report. I'm not



1 sure. I don't really recall much of his interview  
2 and what was tasked, for the most part.

3 Q. If I were to provide you a statement,  
4 would it refresh your recollection?

5 A. Yes, it would.

6 MR. GRANBERG: Your Honor, may I approach?

7 THE COURT: You may.

8 A. This seems to be more like a memo, for the  
9 most part. It mentions my name, but it's not part  
10 of my report.

11 BY MR. GRANBERG:

12 Q. But do you remember doing what the warden  
13 asked you to do?

14 A. I don't remember. We would have done some  
15 follow-up. I don't remember, to be honest.

16 Q. So you don't recall?

17 A. I could have. I might have. I don't  
18 remember. I know that's just a memo. I know we  
19 went back and interviewed him. I'd have to only go  
20 by what my report states on Mr. Saenz.

21 Q. So just to loop back regarding the tape  
22 recording, if the interview had been done back in  
23 2001 of a murder that occurred outside of prison  
24 grounds, it probably would have been recorded? Is  
25 that fair to say?

1           A.     It depends. Yeah, there's times we do  
2 record them. There are times we don't. It just  
3 depends.

4           Q.     You certainly had the technology to do it?

5           A.     Correct.

6           Q.     You certainly had the device with you,  
7 probably not on your person, but in your car, at  
8 least; correct?

9           A.     Correct.

10          Q.     And you didn't do it during any of these  
11 interviews?

12          A.     Hum.

13          Q.     Well, let me narrow it down. You didn't  
14 do it on the interview of March 26; correct?

15          A.     I know it was taped for Mr. Molina, I  
16 believe.

17          Q.     And you didn't do it for Mr. Chavez'  
18 interview later in April; correct?

19          A.     I'm trying to remember if we did or I  
20 didn't. Yeah, I don't -- it's been a long time, to  
21 be honest.

22          Q.     That's probably no.

23                 MR. GRANBERG: Your Honor, I'll pass the  
24 witness.

25                 THE COURT: Thank you, Mr. Granberg.

1 MR. SOLIS: Could I have a word with Mr.  
2 Granberg?

3 THE COURT: Certainly.

4 MR. GRANBERG: Your Honor, I'll pass the  
5 witness.

6 THE COURT: Thank you, Mr. Granberg.

7 All right. Anyone else? Mr. Lahann.

8 CROSS-EXAMINATION

9 BY MR. LAHANN:

10 Q. Good morning, Agent Gonzalez. How are  
11 you?

12 A. Good morning, Mr. Lahann.

13 Q. Okay. So there were a number of items  
14 that were collected and sent to the lab in this  
15 case; isn't that right?

16 A. That is correct.

17 Q. For example, you sent the pillow case, the  
18 sheet, the two blankets, the other sheet, the shoes  
19 and the shoelace from Mr. Garza's cell; isn't that  
20 right?

21 A. That's correct.

22 Q. And you sent that to a lab to have DNA  
23 testing, and you also said serology testing, which I  
24 can't pronounce, but can you describe what that is?

25 A. That's just like body fluids and stuff, as

1 well.

2 Q. Okay. Looking for blood?

3 A. Well, body fluids. It could be saliva, it  
4 could be other types of bodily fluids.

5 Q. So any of the things that a human being  
6 excretes?

7 A. Yes.

8 Q. So you sent all that stuff from  
9 Mr. Garza's cell. And then there were items that  
10 were found throughout the pod, not just from  
11 Mr. Patterson's cell, not just from Mr. Chacon's  
12 cell, but from probably a handful of people that you  
13 collected evidence; isn't that correct?

14 A. Can you be a little more specific on that  
15 as far as -- I mean, are you talking just  
16 specifically within the facility or --

17 Q. Within the pod that you were  
18 investigating.

19 A. Okay.

20 Q. Do you recall all the items that you took?

21 A. What I recall, I know there was items from  
22 Mr. Garza's cell and from Mr. Chacon's cell, as  
23 well. I'm not sure there was other stuff that was  
24 collected by the correctional officers from other  
25 inmates. I think those are the main items that were

1 collected for the most part, yes, sir.

2 Q. The main items. Okay. And I think you  
3 said during Mr. Castellano's questioning you sent  
4 all those items up to the lab to test for bodily  
5 fluids and DNA, and nothing that came back helped  
6 you in following up on your investigation; isn't  
7 that right?

8 A. That is correct.

9 Q. Okay. You talked about heroin, people  
10 using heroin. How is heroin usually used?

11 A. Maybe a form of syringe, I would say. I  
12 never used drugs, so I couldn't tell you.

13 Q. Well, in all your years of law  
14 enforcement, you've come across people that have  
15 used heroin; isn't that right?

16 A. That's correct.

17 Q. And typically it's done with a syringe?

18 A. Right.

19 Q. And typically it leaves something called  
20 track marks; isn't that right?

21 A. For the most part, yes, sir.

22 Q. You said that there was a big shakedown,  
23 you guys had all the inmates out of the pod, every  
24 cell was searched; isn't that right?

25 A. Yeah, for the most part, yes, sir, from

1 what I recall, yes.

2 Q. Were any syringes found?

3 A. Not that I was aware of.

4 Q. Was any heroin found?

5 A. Not that was brought to my attention, no,  
6 sir.

7 Q. Well, you were the lead investigator on a  
8 criminal case involving a murder inside a pod at the  
9 Southern New Mexico Correctional Facility.

10 A. Right.

11 Q. I understand that there were -- you  
12 weren't the only one going from cell to cell  
13 searching; isn't that right?

14 A. That's correct.

15 Q. But the people that were searching, like  
16 Officer Venegas and the corrections officers -- I  
17 mean, they understood that you guys were looking for  
18 evidence; isn't that right?

19 A. That's correct.

20 Q. Okay. And as a case agent, no heroin, no  
21 syringes were found; isn't that right?

22 A. None that was brought to my attention, no,  
23 sir.

24 Q. Okay. No shanks were found; isn't that  
25 right?

1 A. Nothing that was brought to my attention.

2 Q. No possible other weapons other than that  
3 shoestring that was seen; isn't that right?

4 A. That's correct.

5 Q. All right. Let's talk about the prison  
6 environment. You've been out to the prison or other  
7 prisons in New Mexico several times; isn't that  
8 right?

9 A. Yes, sir.

10 Q. Would it be fair to say it's not a  
11 comfortable environment?

12 A. Yes, sir.

13 Q. It doesn't have padded chairs like counsel  
14 over here are seated at or some of the other folks  
15 in the courtroom. It doesn't have leather chairs  
16 and soft bedding; isn't that right?

17 A. Yes, sir.

18 Q. Mainly it's made out of concrete and  
19 steel; isn't that right.

20 A. Yes, sir.

21 Q. A lot of hard edges.

22 A. Yes, sir.

23 Q. Through your investigation, you became  
24 aware of some funny business with some of the folks,  
25 some of the inmates from the pod, who were supposed

1 to be working in kitchen duty; isn't that right?

2 A. The only thing I recall, there was  
3 questions on who was called out or who was supposed  
4 to be called out. It seems to me like there was  
5 probably knowledge of what was going on and maybe  
6 people were trying to get an alibi or something. I  
7 don't know, that's kind of what I kind of remember;  
8 those things were happening with the crew that was  
9 supposed to be going to work. And that's kind of --  
10 if that's what you're talking about -- I'm not sure  
11 that's what you're kind of talking about.

12 Q. That's why you followed up and you  
13 actually interviewed the kitchen staff in this case;  
14 isn't that right?

15 A. I believe the kitchen staff was  
16 Mr. Ibarra; he was the main one. I'm not sure there  
17 was another one.

18 Q. Would that have been Mr. Chacon?

19 A. Correct. Yes, them two.

20 MR. LAHANN: Thank you. No further  
21 questions.

22 THE COURT: Thank you, Mr. Lahann.

23 Any defendants have any questions of Mr.  
24 Gonzalez?

25 All right. Mr. Castellano, do you have



1 any redirect of Mr. Gonzalez?

2 MR. CASTELLANO: Yes, Your Honor.

3 THE COURT: Mr. Castellano.

4 MR. CASTELLANO: May I have a moment, Your  
5 Honor.

6 THE COURT: You may.

7 MR. CASTELLANO: May I approach the  
8 witness, Your Honor?

9 THE COURT: You may.

10 REDIRECT EXAMINATION

11 BY MR. CASTELLANO:

12 Q. You were asked about items submitted for  
13 testing, Mr. Gonzalez. I'm going to show you  
14 Government's Exhibits 8, 9 and 10. And can you tell  
15 us whether you recognize those items?

16 A. Yeah, they look like the property that  
17 came from Mr. Garza's cell. I believe his clothing,  
18 what he had on at the time, the bed sheets, socks,  
19 shirt. This is a wash cloth. I think these have  
20 been repackaged from the original, so I'm not sure  
21 what else is in here, but...

22 Q. Do you see the original packaging inside  
23 there in the brown paper bag?

24 A. Yes, sir.

25 Q. Beginning with Government's Exhibit 8,

1 let's take them one at a time.

2 A. Okay. This is 8.

3 Q. Tell us what's contained within that  
4 exhibit, please.

5 A. This one appears to have some -- like a  
6 towel. There's also, like, looks like a white paper  
7 sheet or something. I'm not sure what that one is  
8 about. I don't see anything else in there.

9 Q. Are you aware from the packaging whether  
10 that was collected from Mr. Garza's cell and  
11 submitted as evidence?

12 A. This one has an initial of EM. I'm not  
13 sure what that. I'm not --

14 MR. COOPER: Your Honor?

15 THE COURT: Yes.

16 MR. COOPER: May I approach?

17 THE COURT: You may.

18 (The following proceedings were held at  
19 the bench.)

20 MR. COOPER: I just noticed that  
21 Mr. Gallegos didn't have a lawyer, Joe Gallegos.  
22 So --

23 THE COURT: What happened?

24 MR. COOPER: I'm not sure. But I think we  
25 probably ought to wait for just a second.

1 THE COURT: Did they both step out?

2 MR. COOPER: Must have.

3 MS. HARBOUR-VALDEZ: Your Honor, would you  
4 like me to step out and --

5 THE COURT: Yes. See what's going on.

6 MR. COOPER: Thank you.

7 THE COURT: All right.

8 MR. COOPER: Thank you.

9 (The following proceedings were held in  
10 open court.)

11 THE COURT: All right, Mr. Castellano.

12 MR. CASTELLANO: Thank you, Your Honor.

13 For the record, I'm having the witness take a closer  
14 look at the exhibits.

15 A. Shorts.

16 THE COURT: Do you want this on the record  
17 or off the record?

18 MR. CASTELLANO: No, sir, I'm just having  
19 him get familiar with the exhibits. Thank you.

20 (A discussion was held off the record.)

21 BY MR. CASTELLANO:

22 Q. Let me turn your attention to Exhibits 9  
23 and 10. Tell us which one you're looking at,  
24 please.

25 A. This is Exhibit 9.

1 Q. What can you tell us about Exhibit 9?

2 A. Looks like it's either a gray shirt,  
3 shorts, a bed sheet, and some socks. That's kind of  
4 what I can see from here.

5 Q. Were those items collected from Mr. Garza?

6 A. Yes, they're the ones that appear to be  
7 consistent with what was in Mr. Garza's cell.

8 MR. CASTELLANO: Your Honor, I move the  
9 admission of Government's Exhibit 9.

10 THE COURT: Any objection? Not hearing or  
11 seeing any objection, Government's Exhibit 9 will be  
12 admitted into evidence.

13 (Government Exhibit 9 admitted.)

14 BY MR. CASTELLANO:

15 Q. Mr. Gonzalez, I'll have you look next at  
16 Exhibit 10, please.

17 A. Correct. These appear to be Mr. Garza's  
18 pants that the he had on at the time, and it still  
19 has his belt.

20 Q. So are those the pants and belt we see  
21 from the photographs of Mr. Garza?

22 A. Yes.

23 Q. And were those also collected as part of  
24 your evidence?

25 A. Yes.

1 MR. CASTELLANO: Your Honor, I move the  
2 admission of Government's Exhibit 10.

3 THE COURT: Any objection? Not seeing or  
4 hearing any objection, Government's Exhibit 10 will  
5 be admitted into evidence.

6 (Government Exhibit 10 admitted.)

7 BY MR. CASTELLANO:

8 Q. Mr. Gonzalez, you were asked about  
9 syringes and track marks. Do you know where inmates  
10 in prison inject themselves with syringes?

11 A. I mean, I mean --

12 MR. GRANBERG: Objection, Your Honor. I  
13 think he's calling for speculation without  
14 foundation.

15 MR. CASTELLANO: And I'm asking if he  
16 knows.

17 THE COURT: This is just a yes/no answer.

18 A. Yeah. Yes.

19 BY MR. CASTELLANO:

20 Q. Let me ask you this. Oftentimes people  
21 will think about people injecting themselves in the  
22 arms, so when they ask about track marks, they often  
23 refer to --

24 MR. GRANBERG: Objection, Your Honor.  
25 Leading.

1 THE COURT: Well, let me see what the  
2 question is.

3 Go ahead and finish the question.

4 BY MR. CASTELLANO:

5 Q. The question is: Oftentimes people think  
6 about people getting injections in their arms, but  
7 is that always the case from your experience?

8 A. I think that's the normal, what we, you  
9 know, perceive as far as how it's injected. But I'm  
10 sure there're other forms of injection into the  
11 body, yes, sir.

12 Q. You were asked about whether or not  
13 syringes or heroin were found in the pod. Are you  
14 aware of ways that inmates get rid of property?

15 A. Yes, sir. Getting back to that, and those  
16 that contain cells, yes, evidence is disposed of  
17 probably on a daily basis, you know, whether they're  
18 drugs, paraphernalia --

19 MR. GRANBERG: Objection, Your Honor. Is  
20 there any foundation to this?

21 THE COURT: I think the way he's  
22 answering, sustained.

23 BY MR. CASTELLANO:

24 Q. Are you aware of each those inmates having  
25 toilets in their cells, for example?

1 A. Yes, sir.

2 MR. CASTELLANO: Pass the witness, Your  
3 Honor.

4 THE COURT: Thank you, Mr. Castellano.  
5 Do you want to recross, Mr. Granberg?

6 MR. GRANBERG: Yes, Your Honor.

7 THE COURT: Mr. Granberg.

8 RECROSS-EXAMINATION

9 BY MR. GRANBERG:

10 Q. Agent, the bags in front of you are  
11 evidence that were collected from the scene?

12 A. That's correct, sir.

13 Q. Was there any evidence collected from  
14 Mr. Chavez' cell?

15 A. I don't recall there was any evidence that  
16 came from his cell, yes.

17 Q. No bloody shoestrings, no bloody towels,  
18 no bloody T shirts, none of that; correct?

19 A. Not that I recall, no, sir.

20 Q. Now, when you reinterviewed everybody  
21 later in April, there were claims of drug use,  
22 heroin use; is that correct?

23 A. That's correct.

24 Q. Did you go back and follow up with prison  
25 officials to request urine tests?

1 A. No, I did not.

2 Q. Certainly the urine or the body would  
3 contain some trace evidence of heroin use if heroin  
4 was being used. Wouldn't that be fair to say? It's  
5 a yes or no.

6 A. Yeah, it depends on the timeframe. I  
7 don't know.

8 Q. It would be yes or no.

9 A. Possibly, yes, sir.

10 Q. That wasn't done. Certainly possession of  
11 heroin in prison grounds is against prison policy;  
12 correct?

13 A. That's correct.

14 Q. And possession of heroin is even against  
15 state law; is that correct?

16 A. That's correct.

17 Q. And nothing was done to ascertain whether  
18 heroin was actually being used; is that correct?  
19 You didn't chase down that lead?

20 A. No, that --

21 MR. GRANBERG: Pass the witness, Your  
22 Honor.

23 A. No, sir.

24 THE COURT: Thank you, Mr. Granberg.

25 Mr. Castellano, any redirect?



1 MR. CASTELLANO: No, Your Honor.

2 THE COURT: All right. Mr. Gonzalez, you  
3 may step down.

4 Is there any reason that Mr. Gonzalez  
5 cannot be excused from the proceedings,  
6 Mr. Castellano?

7 MR. CASTELLANO: No, sir.

8 THE COURT: Can he be excused?

9 MR. LAHANN: Your Honor, I would ask he be  
10 held under subpoena. He can go back to his normal  
11 business, but I would ask that he be subject to  
12 recall.

13 THE COURT: All right. Then you'll need  
14 to stay outside the courtroom during the  
15 proceedings. You are subject to recall, but you're  
16 free to leave the courthouse. Thank you,  
17 Mr. Gonzalez. Thank you for your testimony.

18 THE WITNESS: Yes, sir.

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1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3

4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
6 Official Court Reporter for the State of New Mexico,  
7 do hereby certify that the foregoing pages  
8 constitute a true transcript of proceedings had  
9 before the said Court, held in the District of New  
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my  
12 hand on this 1st day of May, 2018.

13

14

15 \_\_\_\_\_  
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